



MAIL STOP PCT
PATENT
9008-1004

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Paul ROSS et al.

Conf. 8808

Application No. 10/576,010

Group 1632

Filed April 17, 2006

Attn: PCT Legal Office

USE OF PROBIOTIC BACTERIA IN THE TREATMENT OF
INFECTION

PETITION UNDER 37 CFR §1.47(a)

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 6, 2007

Sir:

It is respectfully requested that the above-identified application be accepted under the provisions of 37 CFR §1.47(a), even though the second listed inventor, namely Stephen HALLAHAN, has refused to execute the application papers.

In response to the accompanying Notification of Missing Requirements Under 35 USC 371 in the United States Designated/Elected Office, there is submitted herewith:

- 1) a Claim of Small Entity Status;
- 2) a petition for a five-month extension of time to respond to the Notification of Missing Requirements by August 5, 2007 for a small entity;
- 3) a Combined Declaration and Power of Attorney signed by the first named inventor, Paul ROSS, on his behalf, as well as on behalf of the non-signing inventor;

4) a copy of an Assignment, which has already been submitted for recordation in the USPTO; and

5) a Declaration from Dr. Christina Gates, the Managing Partner of Tomkins & Company, European Patent Attorneys, who is the person having firsthand knowledge of the facts of co-inventor Stephan HALLAHAN's refusal to execute the application papers.

In her Declaration, Dr. Gates declares that on June 19, 2007, she sent a registered letter, return receipt requested, to co-inventor Stephen HALLAHAN, at his last known business address, namely:

Mr. Stephen HALLAHAN c/o Cross VetPharm Group Limited,
Broomhill Road, Tallaght, Dublin 24, Ireland.

Dr. Gates further declares that since she did not have any knowledge of Mr. HALLAHAN's home address, she used the same business address which was provided during the international phase, and which appears on the front page of International Publication WO 2005/034970. The registered letter contained a complete copy of the application papers, including the specification, claims, abstract, figures, along with a Combined Declaration and Power of Attorney, a general Assignment document, and an Assignment document specific for the United States. Mr. HALLAHAN was asked to return the signed documentation to Dr. Gates within twenty-one (21) days, and was advised that failure to execute the papers by such deadline would be construed as a definite refusal to join in the application papers. To date, Dr.



Docket No. 9008-1004
Appln. No. 10/576,010

Gates has yet to receive any positive response from Mr. HALLAHAN.

A copy of Dr. Gates' June 19, 2007 letter, as well as an extract of the List of Registered Postal Packages of the Irish Postal Service, a Post showing that package RR 4578 4601 OIE, which was directed to Mr. Stephen HALLAHAN on June 19, 2007, as well as an extract from the Delivery Record Card of a post confirming that package RR 4578 4601 OIE was signed for by P. Lawlor at "Cross Vet" on June 20, 2007 are attached to Dr. Gates' Declaration.

The Commissioner is hereby authorized to charge the requisite 37 CFR 1.17(g) petition fee of \$200 under Fee Code 1463 to Counsel's Deposit Account No. 25-0120.

In view of the above facts, and accompanying supporting documents, it is respectfully requested that the above-identified application be accepted under the provisions of 37 CFR 1.47(a) even though the second listed inventor has refused to execute the application papers.

Respectfully submitted,

YOUNG & THOMPSON

Benoit Castel

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Arlington, VA 22202
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Telefax (703) 685-0573
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BC/lrs



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.	
10/576,010	Paul Ross	90081004	
		INTERNATIONAL APPLICATION NO.	
		PCT/IE04/00143	
		I.A. FILING DATE	PRIORITY DATE
		10/15/2004	10/17/2003
		CONFIRMATION NO. 8808	
		371 FORMALITIES LETTER	
		 OC000000021842296	

Date Mailed: 01/05/2007

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 04/17/2006
- Copy of the International Search Report filed on 04/17/2006
- Preliminary Amendments filed on 04/17/2006
- Information Disclosure Statements filed on 04/17/2006
- Request for Immediate Examination filed on 04/17/2006
- U.S. Basic National Fees filed on 04/17/2006
- Priority Documents filed on 04/17/2006

DOCKETED

March 5, 2007

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

INDIA L EVANS

Telephone: (703) 308-9140 EXT 212

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/576,010	PCT/IE04/00143	90081004

FORM PCT/DO/EO/905 (371 Formalities Notice)

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Application No. 10/576,010 Group 1632

Filed April 17, 2006

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INFECTON

SMALL ENTITY CLAIM

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 6, 2007

Sir:

Applicants hereby claim small entity status under 37 CFR
1.9 and 37 CFR 1.27.

Respectfully submitted,

YOUNG & THOMPSON

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Paul ROSS et al. Conf. 8808

Application No. 10/576,010 Group 1632

Filed April 17, 2006 Examiner PCT Legal Office

USE OF PROBIOTIC BACTERIA IN THE TREATMENT OF
INFECTION

PETITION FOR EXTENSION OF TIME

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 6, 2007

Sir:

The undersigned hereby petitions for an extension of time to respond to the Official Action of January 5, 2007 for five months to August 5, 2007.

Please charge the small entity extension fee of \$1,080.00 to Deposit Account No. 25-0120. A duplicate copy of this sheet is enclosed.

A responsive paper is filed herewith.

Respectfully submitted,

YOUNG & THOMPSON

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**COPY FOR DEPOSIT 9008-1004
ACCOUNT PURPOSES
IN THE U.S. PATENT AND TRADEMARK OFFICE**

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